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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/754,716	01/04/2001	Christian M. Hoebener	DAL0002.01	2096

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EXAMINER

LE, TAN

ART UNIT

PAPER NUMBER

3632

DATE MAILED: 02/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/754,716	Applicant(s) Hoebener et al.
	Examiner Tan Le	Art Unit 3632

-- The MAILING DATE of this communication appears in the cover sheet with the correspondence address --

Period for Reply.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) Responsive to communication(s) filed on Nov 19, 2002

2a) This action is **FINAL**. 2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) Claim(s) 1-8, 10-15, and 21-30 is/are pending in the application.

4a) Of the above, claim(s) _____ is/are withdrawn from consideration.

5) Claim(s) 2-8 and 13-15 is/are allowed.

6) Claim(s) 1, 10, and 21-28 is/are rejected.

7) Claim(s) 11, 12, 29, and 30 is/are objected to.

8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on _____ is/are a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on _____ is: a) approved b) disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13) Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some* c) None of:
1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. _____.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

*See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) The translation of the foreign language provisional application has been received.

15) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____	6) <input type="checkbox"/> Other: _____

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DETAILED ACTION

1. This is the fourth office action for serial number 09/754,716, Mount for TV Monitor, filed on 01/04/01. This application contains 24 claims numbered 1-8, 10-15 and 21-30. Claim 9 has been canceled.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1 and 21-26 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, Applicant is claiming “one of either the barrel-shaped swivel part or catch being connected to the support and the other connected to the appliance” as claimed in claim 21, and “a slot that has a width that is smaller than the swivel part” as claimed in claim 1. However, this limitation does not support in the disclosure.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 10 rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent

No. 5,400,993 to Hamilton.

Hamilton discloses a mount 10 including a frame 18, an upper catch part 48, 106 with a slot therein that is located centrally to side portions of the frame, and a swivel part 108 suspended from a support, wherein the swivel part is fitted into the slot and engages the catch part. Hamilton also discloses that the slot has a width being wider than the swivel part where the swivel part is fitted into the slot. Hamilton however, does not disclose the slot having a width being narrower than the swivel part where the swivel part engages the catch part.

It would have been an obvious matter of design choice to have made a slot having a varying width since the width of the slot depends on the size of the swivel part which Applicant has not provided criticalities regarding what size of the swivel part to be employed. Nevertheless, the slot having a width that is smaller than the swivel part as claimed by Applicant has no patentable significant.

Hamilton also does not disclose exactly the swivel part being a barrel-shaped part.

It would have been an obvious matter of design choice to make the swivel part to be barrel in shape, since applicant has not disclosed that a barrel-shape solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with the swivel part formed to shapes other than barrel-shaped. Nevertheless, the particular shape claimed

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by the Applicant is nothing more than one of numerous shapes that a person having ordinary skill in the art provides for using routine experimentation based on its suitability for the intended use of the invention. See *In Re Daily*, 149 USPQ 47 (CCPA 1976)

Claim Rejections - 35 USC § 102

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 27 and 28 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,915,658 to Sheng.

Regarding claim 27, Sheng discloses a mount comprising a frame (20); a support assembly (10); and a tilt mechanism (31, 32, 40) interconnecting the frame and the support assembly whereby a singular movement (40) of the tilt mechanism both tilts and holds the applicance relative to a vertical plane.

Regarding claim 28, Sheng also discloses a catch part (21, 211) on the frame, the catch part having a slot (211) therein, the tilting mechanism at least partially located in the catch part and engaged therewith to tilt and hold the applicance into the tilted position.

Allowable Subject Matter

5. Claims 11-12 and 29-30 are objected to, but would be allowable if rewritten to include all of the limitations of the base claim and any intervening claims.

Claims 2-8 and 13-15 are allowed.

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Response to Arguments

6. Applicant's arguments filed on 11/19/02 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

7. **THIS ACTION IS MADE NON- FINAL.**

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Tan Le, whose telephone number is 703.305.8244. The Examiner can normally be reached on Tuesday through Thursday, 9:00-6:00 and alternating Mondays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie Braun can be reached on (703) 308-2156. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9326 for official communications and (703) 872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this Application should be directed to the Group receptionist at 703.308.2168.

Tan Le

Tan Le
Patent Examiner
AU 3632
February 06, 2003.

Ramon O. Ramirez
RAMON O. RAMIREZ
PRIMARY EXAMINER
ART UNIT 355-3632